

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:17-CR-405-FL-1

UNITED STATES OF AMERICA

v.

JESUS ELIEZER GONZALEZ ACEVEDO,

Defendant.

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ORDER

On December 21, 2017, pursuant to a request from the government, the court ordered Defendant undergo a psychiatric examination, pursuant to 18 U.S.C. §§ 4241 *et seq.*, to determine whether Defendant is presently suffering from a mental disease or defect to the extent he is unable to understand the nature and consequences of the proceedings against him or assist in his defense. [DE-20]. The court ordered further that an examining psychiatrist or psychologist prepare and file a report pursuant to § 4247(b) detailing findings relevant to the court's determination on Defendant's competency.

Thereafter, on January 18, 2018, Defendant arrived at Federal Medical Center (FMC) Devens, Massachusetts pursuant to the court's order for examination. A Forensic Report was drafted by Forensic Psychologist Chad Tillbrook, Ph.D., detailing his evaluation of Defendant from January 18, 2018 to March 5, 2018. According to Dr. Tillbrook, Defendant meets the diagnoses of Schizoaffective Disorder, Depressed Type and Mild Intellectual Disability. Dr. Tillbrook opines that Defendant's present condition compromises Defendant's ability to assist his attorney in planning and implementing a defense strategy, compromises his factual understanding of courtroom proceedings and to learn this information presently, and to participate rationally in his defense. According to Dr. Tillbrook, with further treatment and more

education about specific proceedings, Defendant's condition may improve to permit his case to proceed with adjudication.

On July 23, 2018, this matter came back before the court for a hearing in accordance with 18 U.S.C. §§ 4241 and 4247(d). At the hearing the government was represented by Assistant United States Attorney Daniel Smith and Defendant, who was present in the courtroom, was represented by Raymond Tarlton. The court advised Defendant of his rights under 18 U.S.C. § 4247(d). The government argued the findings contained in Dr. Tillbrook's Forensic Report. Defendant did not contest the findings of the Forensic Report and offered no evidence to the contrary.

After consideration of the position of the parties and the Forensic Report, the court finds by a preponderance of the evidence, pursuant to 18 U.S.C. § 4241(d), that Defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him and to assist properly in his defense.

Accordingly, Defendant is committed to the custody of the Attorney General. Pursuant to 18 U.S.C. § 4241(d), the Attorney General shall hospitalize Defendant for treatment in a suitable facility—

(1) for such a reasonable period of time, not to exceed four (4) months, as is necessary to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the proceedings to go forward; and

(2) for an additional reasonable period of time until--

(A) his mental condition is so improved that trial may proceed, if the court finds that there is a substantial probability that within such additional period of

time he will attain the capacity to permit the proceedings to go forward; or

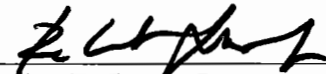
(B) the pending charges against him are disposed of according to law;

whichever is earlier.

If, at the end of the time period specified, it is determined that the defendant's mental condition has not so improved as to permit the proceedings to go forward, the defendant is subject to the provisions of sections 4246 and 4248.

18 U.S.C. §§ 4241(d)(1), (2).

So ordered, the 24th day of July 2018.



Robert B. Jones, Jr.
United States Magistrate Judge